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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

999 18TH STREET - SUITE 300

DENVER, CO 80202-2466

<http://www.epa.gov/region08>

November 22, 2000

Ref: ENF-L

BY EXPRESS MAIL

John D. McCarthy, Esq.
Holme Roberts & Owen LLP
1700 Lincoln Street, Suite 4100
Denver, CO 80203

Dear Jay:

Thank you for taking the time last week to discuss access issues at the Screening Plant. You indicated that W.R. Grace was denying access to Kootenai Development Company ("KDC") property adjacent to the Screening Plant and across the river from the Screening Plant because there has not been enough information provided to W.R. Grace to understand what the United States Environmental Protection Agency ("EPA") is intending to do on those properties. EPA believes there has been sufficient information made available to W.R. Grace to comprehend the general nature of the work EPA wishes to perform on this property. EPA's action memorandum, which W.R. Grace has had in its possession since May, clearly indicates the nature of the cleanup activities. W.R. Grace has its own workplan for the Export Plant, developed from an EPA statement of work, describing in detail the nature of the cleanup work to be performed. In addition, W.R. Grace has had access to the EPA's sampling and analysis plan (January, 2000) and has had representation at the community advisory group meetings where the progress of Screening Plant work has been discussed.

As I discussed with you last week, I am enclosing the "Removal Action Sampling and Analysis Plan for Confirmation Sampling of Soil and Perimeter and Personal Sampling of Air for Asbestos, September 2000 Revision 1". I am also enclosing maps indicating sampling points and potential excavation areas on the KDC properties. These recently prepared maps are preliminary in nature. While the exact areas of excavation may change as analysis continues, the maps give an initial indication of the scope of the response action planned. W.R. Grace's denial of access for surveying during the summer of 2000 delayed EPA's work in developing these scoping documents. Please note that for the loading facility the necessary data is currently unavailable.

In W.R. Grace's Prediscovery Disclosure Statement, you indicate that EPA may have copies of documents you identified as relevant upon request. EPA would be interested in receiving copies of the following of those documents:



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Agreement dated December 1, 1994 by and between Kootenai Development Company and W.R. Grace & Co. - Conn.

Purchase and Sale Agreement dated December 1, 1994 by and between Kootenai Development Company and W.R. Grace & Co. - Conn.

Stock Purchase Agreement among W.R. Grace & Co. - Conn., Kootenai Development Company, Mark G. Owens, and Jack W. Wolter dated 14 July 2000.

Thank you for informing me that David Cleary, Senior Environmental Counsel for W.R. Grace & Co., is the agent for KDC. I have passed that information on to my client. If you have any questions, please feel free to contact me. I will be returning to the office from travel on December 4, 2000.

Sincerely,

A handwritten signature in cursive script that reads "Matt Cohn".

Matthew Cohn
Legal Enforcement Program

Enclosures